

REMARKS

The Office Action, mailed March 3, 2009, considered and rejected claims 1-23. Claims 1-23 are pending. Claims 1-23 were objected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1-19 of *Cabrera* (U.S. Patent 7,313,727).¹

By this paper, no claims are amended, cancelled, or added. Accordingly, following this paper, claims 1-23 remain pending, of which claims 1, 10 and 22 are the independent claims at issue.

As reflected in the Office Action, Applicant's claims were all rejected as being unpatentable on the grounds of non-statutory, obviousness-type double patenting, and in view of *Cabrera*. With this amendment, Applicants are supplying a Terminal Disclaimer disclaiming the terminal portion of this Application to the extent the same would extend past the expiration of *Cabrera*.² In view of the filing of the Terminal Disclaimer, which should render the double patenting rejection moot, Applicant respectfully submits that the Application is in condition for a prompt allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 30th day of June, 2009.

Respectfully submitted,



RICK D. NYDEGGER
Registration No. 28,651
COLBY C. NUTTALL
Registration No. 58,146
Attorneys for Applicant
Customer No. 47973

RDN-CCN:gd
2323062_1.DOC

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² To the extent the language in the response and the Terminal Disclaimer are in conflict, the language in the Terminal Disclaimer should govern.